

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 6-12-2018
TIME: 10:00 a.m. (43 minutes)

Castillo, et al. v. Perfume Worldwide Inc., et al.
CV 17-2972 (JS)(AKT)

TYPE OF CONFERENCE: **STATUS CONFERENCE**

APPEARANCES: Plaintiff Steven John Moser

Defendant Jacques Catafago

Non-Party/Movant Austin Graff (The Scher Law Firm, LLP)

FTR: 10:28-11:11

SCHEDULING:

This case is set down for a Telephone Status Conference on December 6, 2018 at 11 a.m. Plaintiffs' counsel is requested to initiate the call to Chambers with opposing counsel on the line.

THE FOLLOWING RULINGS WERE MADE:

The following list is a summary of the rulings issued during today's conference. If any party needs a more amplified record, counsel may contact Courtroom Deputy Mary Ryan (631-712-5760) to arrange to order a transcript.

1. The Court granted, in part, the non-parties' Motion to Quash [DE 56]. For the reasons stated in the record today, the Court determined that there has been a waiver of the attorney-client privilege as to the issue of advice and information concerning the 20-minute real break. That waiver extends to all communications, correspondence and conversations between the clients and their counsel on this issue. However, the waiver does not extend beyond this specific issue.

The Court declined to award attorney's fees to the non-party.

2. With regard to the June 8, 2018 Discovery Status Report [DE 198], the Court ruled as follows:
 - Defendants' referring plaintiffs' counsel to ADP for the corporation's documentation is not a satisfactory response. Defendants have an obligation to obtain those records themselves and then to turn them over to Plaintiffs.
 - As to plaintiffs' document request 27, the Court inquired why the contract with ADP is critical to Plaintiffs' claims. Having heard counsel's response, the Court noted that the parties could resolve this issue by way of a stipulation and directed them to have a further discussion concerning such a stipulation.

- As to plaintiffs' document request 34, the Court recommended that, in light of its ruling on the motion to quash, Plaintiffs' counsel is free to explore this topic at the non-party deposition(s). If as a result of those depositions counsel believes he is entitled to further relief, he may make a proper application to the Court. The Court is not requiring defendants to supplement their response at this time.
- Plaintiff's counsel advised that there are no disputes regarding the discovery of Defendants' NYS 45 forms and records in the possession of Trinet.
- Defendants' counsel will take the steps he stated today to get the discovery responses into a single document. Counsel has until June 27, 2018 to do so.

Based on the above rulings, DE 35 is deemed MOOT and DE 46 is GRANTED, in part.

3. We spent some time discussing the depositions each side needs to complete. The Court directed that these depositions be conducted between September 1, 2018 and the end of November, 2018 in light of the depositions defendants' counsel must take abroad in another case during the summer.

However, the depositions of Barbara Kalish and The Sher Law Firm may proceed before September 1. As to these depositions, counsel will submit to the Court dates on which they are considering conducting the depositions so that the Court can ensure its availability on those days.

4. At the December 6, 2018 Conference, the Court expects the parties to confirm that all depositions have been completed. The Court will set the remainder of the schedule, which will include dates for expert discovery.
5. Counsel for the Defendants advised that certain of the opt-ins are not in defendants' records. He and Plaintiff's counsel will work together to ascertain the identities of these individuals.

SO ORDERED

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge